



Executive
15 November 2010

**Report from the Director of
Housing and Community Care**

Wards Affected:
ALL

**Authority to award a call off contract from London
Collaborative Procurement Framework Agreement for the
provision of Community Equipment Service**

1. Summary

- 1.1. This report requests approval pursuant to the Council's Contract Standing Orders for the award of a call off contract from a framework agreement following a successful collaborative procurement exercise for the provision of a Community Equipment Service through a consortium of London Boroughs led by the Royal Borough of Kensington and Chelsea (RBKC).

2. Recommendations

- 2.1. That the Executive notes the award of framework contract to Medequip Assistive Technology Limited (Medequip) for the provision of Community Equipment Services (the Framework) following a collaborative procurement exercise carried out by the Royal Borough of Kensington and Chelsea.
- 2.2. That the Executive approves the award of a call off contract from the Framework to Medequip for the provision of a Community Equipment Service to the London Borough of Brent for the period from 1st July 2011 up to 31st March 2015 with provision for extension as set out in the Framework agreement.
- 2.3. That the Executive delegates the authority to the Director of Housing and Community Care and the Borough Solicitor to finalise the Access Agreement required under the Framework to establish contractual terms with Medequip and the Royal Borough of Kensington and Chelsea.

3. Background

- 3.1. The Community Equipment Service in Brent is currently run through a partnership between the Council and the Brent Teaching Primary Care Trust (also known as NHS Brent). There is a partnership agreement between the Council and PCT under powers set out in section 75 of Health Act 2006

which includes a pooled budget. Both parties contribute equally to the pooled budget. The Council is the lead body for the partnership and as such awarded the current contract for supply of Community Equipment for use by both the Council and the PCT.

- 3.2. Local authorities are required by law to assess ordinary residents who present themselves in need of social care. Based upon a needs assessment carried out by a professional such as an occupational therapist, fair access criteria and the financial position of the individual resident, local authorities are required to offer a range of services, one of which is the provision of Community Equipment Services so as to enable residents to remain living at home. Equipment can range from walking sticks through to bath aids and specialist beds. Due to legislation this service is not subject to means testing as it is part of the Government's health prevention agenda.
- 3.3. Similarly Primary and Acute Health Trusts need to provide equipment to meet the health needs of residents being cared for at home.
- 3.4. In 2000 the Department of Health (DH) published a recommendation to local authorities and health trusts that consideration should be given to the integration of their community equipment services into a single operation/service (Integrated Community Equipment Service – ICES). Although acceptance of the recommendation was not mandatory most London Authorities and the Primary/Provider Care Trusts (PCT) including the London Borough of Brent and Brent tPCT adopted the recommended model. Typically, a London Borough and its health partner issue and collect 10,000 plus pieces of equipment annually at a cost of £1.1m.
- 3.5. Each local authority/PCT in London (with the exception of RBKC and Hammersmith and Fulham) procured an ICES service provider independently. Due to the limited number of potential service providers a large number of local authorities ended up with a common provider (either Millbrook Healthcare or Medequip Assistive Technology). Brent Council's current contract is with Millbrook and the contract expires on 30th June 2011, though it has the potential for a contract extension of up to a year. A significant number of these arrangements across London are now due to be re-let. Under the current contract, there is provision of on-line ordering of equipment, and then supply and delivery of the equipment by Millbrook.
- 3.6. A number of London Boroughs have over the last nine months been working together to explore ways in which the Community Equipment Service can be more responsive to the needs of Service Users and how operational efficiencies can be achieved. The West London Consortium, now the London Consortium is a collaborative body made up of the Boroughs of Kensington and Chelsea, Camden, Brent, Hammersmith & Fulham, Harrow, Hillingdon, Hounslow, Southwark, Wandsworth, Westminster, Barking and Dagenham and Ealing. These discussions have been led by the Royal Borough of Kensington and Chelsea (RBKC).
- 3.7 RBKC subsequently tendered a single-provider Framework for use by the

consortium of London Boroughs. The contract was expressed to be for the use of the health and local authorities. This report is now requesting authority for the Council to award a call-off contract to the Framework provider, Medequip. The move to the Framework will not change significantly the way in which either prescribers or service users use the community equipment service as the online ordering and subsequent delivery processes are similar.

- 3.8 The decision to move to the Framework rather than use the second year of the extension to the current contracted service was based upon the need to ensure that budget available to the Community Equipment Service was being used in the most cost effective manner and our understanding of other major factors such as the Department of Health Prescription Model (see paragraph 6.2 below), upcoming GP commissioning, the Government spending review; all factors that could reduce the budget and impact on our ability to negotiate value for money pricing, mean that a move to the consortium sooner rather than later will give the Borough those economies of scale. The ability to jointly work with local boroughs and health providers to provide a better service and allow the council to benefit from initiatives such as linking Council and Health IT systems to the ordering portal.

4. Partnership Outcomes

4.1. The envisaged advantages of Brent's participation in the Framework are:-

4.1.1. Lower costs by maximising the joint purchasing power of the participating local authorities, including the move to generic products;

4.1.2. Greater use of non standard stock thereby increasing the use of returned specials. Specials are bespoke or very specialised and expensive items of equipment (often paediatric) that are bought by the Community Equipment Service and have been returned by the user as they are no longer needed, Examples are paediatric chairs and specialised shower chairs.

4.1.3. Service efficiencies in terms of common processes and documentation;

4.1.4. A forward looking information system that supports future changes; and

4.1.5. Directly influencing service provider's contract management and developmental processes through the consortium of London boroughs.

5. Contractual Arrangements

5.1. The framework agreement was concluded between the Royal Borough of Kensington and Chelsea (RBKC) and Medequip with a start date of 1st April 2010. The contract was tendered and awarded according to RBKC standing orders and contract procedures. The prices for supply of equipment are those set out in nationally agreed standards.

5.2. In order to enter into a contractual relationship with Medequip, the Council will need to enter into a three-way Access Agreement with Medequip and RBKC. Under its existing section 75 agreement with the PCT, it is for the Council to let contracts for the delivery of the BICES. The framework agreement provides for a single call-off to be made, and this is what the Executive are recommended to award in this report. The implementation will allow for the contract to start on 1st July 2011 on the expiry of the current Millbrook contract. Notice on the current Millbrook contract needs to be given by Dec 31st, 2010.

5.3 The Framework also provides for the prices set out in the framework to be adjusted to allow for the application of TUPE. As set out in the legal comments, TUPE will apply to some staff of the current contractor.

6. Use of Framework in Brent

6.1. The proposed call-off contract from the Framework will be used for the provision of Community Equipment Service in Brent.

6.2. The Framework could be used by Brent to implement the Department of Health Transforming Community Equipment Services Prescription model in

Brent. This is a model whereby Community Equipment classed as a simple aid to daily living would be supplied by a retailer against a prescription given to the service user and paid for by the Community Equipment Service. The Community Equipment service has decided to bypass the Prescription model entirely and have removed all items classed as simple aids to daily living from the community equipment catalogue and have produced information signposting service users to local retailers who can supply the equipment.

6.3. The Framework should be more cost effective as the cost of a Brent only service, tendered separately, is estimated to cost 15% more than the Framework.

6.4. The Council is required to contribute to the Royal Borough of Kensington and Chelsea's costs in operating the Framework and this is in the sum of £20,179.00 per annum. This sum is based to an extent on the number of participating authorities. It is understood that these costs will be reviewed on an annual basis.

7. Key Risks

7.1. Medequip have multiple sites across London significantly reducing the impact of losing a depot due to a disaster.

7.2. A risk log is reviewed by the project board monthly.

7.3 There is a risk that if local commissioning of health services transfers to GP practices, that volumes of health-related equipment ordered through the contract will fall. However this is a risk for the new provider as there are no guaranteed volumes in the new contract.

8. Financial Implications

8.1. Establishing the framework agreement in itself will not present any financial implications, apart from the payment to RBKC referred to above. However, the BICES board and the Joint Executive Team will need to address a number of financial issues:-

8.1.1. The contract value will need to be contained within current budgets.

8.1.2. There will be the possibility of volume discounts dependent on the number authorities making use of the Framework agreement.

8.2. The service is operated as a pooled budget in partnership with Brent tPCT. Any increases/decreases in cost will have a knock on impact on each partner's contribution to the pool, this pooled budget may change or cease in the future.

8.3. The cost of participating in the Framework for Brent has been compared with our existing Community Equipment service and the estimates of procuring a standalone service. Using this frame Framework as a benchmark of 100%,

the cost of participating in the framework is similar to the cost of the current 4 year old tendered service and is significantly less than the cost procuring of a Brent only stand alone service exclusive of whose figures do not include the one- off £90k estimated tendering cost.

8.4. There are significant pressures on the current budget and a number of measures are being put into place to ensure that the service will work within its budget.

Estimated Cost for BiCES	BiCES Budget	Cost of Options
Current Millbrook Contract		97%
Framework Contract	£1,429,000	100%
Brent as a standalone service		115%

9. Legal implications

9.1 When awarding the individual call-offs from a framework agreement, contracting authorities do not have to go through the full procedural steps in the EU Procurement Regulations again as long as they were followed properly in the setting up of the framework agreement. Where the Royal Borough of Kensington and Chelsea has gone through the full procedural steps in setting up the Framework then the Council is legally entitled to call-off a contract from the same.

9.2 The proposed call-off contract comes under the category of a high value contract and the Councils Contract Standing Order 86(d) states that the award of the same requires the approval of the Executive.

9.3 Pursuant to Sections 74 and Section 75 of the National Health Service Act 2006, local authorities and NHS bodies are required to work together to improve health and health care and provision is made for flexible funding and working arrangements to establish this. This would include, but is not limited to a pooled budget arrangement.

9.4 Approximately 9 employees of the existing service provider are said to be wholly or mainly occupied with the provision of the Community Equipment Service to the Council. These employees (unless they object to transferring) shall transfer to the employment of Medequip under the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). As such, their terms and conditions of employment shall be protected accordingly. The existing service provider will need to consult with them in accordance with TUPE and provide the relevant personnel information to Medequip. However because of the different way of supplying low-cost items of equipment under the new arrangement, it is possible that some of these employees will be redundant. As these employees relate to the second phase of implementation, the Council will need to work with Medequip and the current contractor as to how this process is best managed.

- 9.5 The client department does not appear to have not carried out an Equality Impact Assessment (EQIA) in relation to the proposed award of contract. It would also appear that the users of the service in question may be of diverse ethnic origin. Recent case law shows that rulings have been made against local authorities who have failed to consult with diverse groups that may be affected as result of a change in service provision. This presents a risk and the same can be mitigated by the client department proceeding to carry out an EQIA prior to the commencement of the call-off contract. Depending on the result of this, the use of the Framework may proceed. As the contract itself does not start until 1st July 2011 there is enough time to do this and make whatever adjustments are necessary.
- 9.6 A report has been submitted to the Borough Solicitor in accordance with the Council's Contract Standing Order 86 (d) (ii) and as regards the Council's proposed participation in the Framework. The Borough Solicitor has confirmed that it is legally permissible for the Council to participate in the Framework.
- 9.7 Pursuant to the Council's Contract Standing Order 86 (d) (ii), the Director of Finance and Corporate Resources and the Chief Officer also need to approve the Council's proposed participation in the Framework. If this has not been done before the date of the Executive meeting, then members will be advised orally at the meeting.

10. Diversity Implications

- 10.1 An Equalities Impact Assessment may be required in relation to the award of the new contract (see paragraph 9.5 above).

11. Background papers

The Royal Borough of Kensington and Chelsea, Key Decision Report dated 23 July 2009.Doc Ref KD03183R.pdf
Analysis of Medequip Service in Brent Doc ref Medequip Brent.xls
Framework Contract Agreement Document Folder

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